

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

IN RE	:	CHAPTER 13
	:	
MARY MARIA SPIVEY,	:	CASE NO. 20-40435-BEM
	:	
Debtor.	:	
	:	
	:	
	:	
	:	
CAPITAL ONE AUTO FINANCE, A	:	
DIVISION OF CAPITAL ONE, N.A.,	:	
	:	
Movant,	:	
	:	CONTESTED MATTER
v.	:	
	:	
MARY MARIA SPIVEY, Debtor;	:	
and MARY IDA TOWNSON, Trustee,	:	
	:	
Respondents.	:	

**OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN**

COMES NOW Capital One Auto Finance, a division of Capital One, N.A. (the "Movant"), a creditor of the referenced Debtor, and hereby moves this Court to deny confirmation of Debtor's Chapter 13 Plan. In support of its objection, the Movant shows the Court as follows:

1.

On February 23, 2020, Mary Maria Spivey ("Debtor") filed a Voluntary Petition pursuant to 11 U.S.C. Section 1301 et seq., and said case is presently pending before this Court.

2.

Movant has a net claim in this case in the approximate amount of \$20,760.44 secured by a 2013 Dodge RAM 1500 (the "Collateral").

3.

Debtor's Chapter 13 Plan fails to propose any treatment for Movant's secured claim of \$20,760.44. The debt is cosigned by Van Spivey. If Debtor intends to retain the vehicle and

protect the nonfiling cosigner, the proposed Plan must provide to either pay Movant's claim in full at contractual interest of 17.220% and monthly payments of \$615.29, or surrender the Collateral. If the nonfiling cosigner will be making direct payments to Movant, the plan must be amended to include such treatment.

4.

The specific terms of the proposed plan itself are not proposed in good faith in violation of 11 U.S.C. §1325(a)(3), as it does not provide treatment for Movant's claim. In doing so, Debtor fails to provide Movant with proper lien retention as stated in 11 U.S.C. §1325(a)(5)(B)(i)(I).

5.

Movant has no proof of full coverage insurance on the Collateral and is therefore not adequately protected.

WHEREFORE, the Movant prays that its Objection to Confirmation of Chapter 13 Plan be inquired into and sustained and that it has such other and further relief as this Court deems just and proper.

This April 17, 2020.

The Law Office of  
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.  
Attorneys for Movant

By: /s/Philip L. Rubin  
Philip L. Rubin  
Georgia State Bar No. 618525

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**CERTIFICATE OF SERVICE**

The undersigned, Philip L. Rubin, hereby certifies that I am, and at all times hereinafter mentioned, was more than 18 years of age, and that I served the OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the following parties 1) electronically, if allowed by and pursuant to the requirements of local rule, or 2) by depositing same in the United States Mail in properly addressed envelope(s) with adequate postage to all others, as follows:

Mary Maria Spivey  
229 Winding Valley Dr  
Rockmart, GA 30153-7355

Jill S Salter  
P.O. Box 609  
Rome, GA 30162

Mary Ida Townson  
Chapter 13 Trustee  
285 Peachtree Center Avenue, NE  
Suite 1600  
Atlanta, GA 30303

This April 17, 2020.

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Attorneys for Movant

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